

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
FINAL UTILITY ORDERS  
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September 23, 2002

In the Matter of the

DOCKET NO. UT-003013

Continued Costing and Pricing  
of Unbundled Network  
Elements, Transport, and  
Termination

FINAL ORDER ON RECONSIDERATION,  
PART B

The Commission is not bound by a federal circuit court of appeals decision in which no mandate has been issued by the court and in which the parties have requested reconsideration and may further appeal the court's decision. ¶23; *United States Telecom Association v. FCC*, 290 F.3d 415 (D.C. Cir. 2002).

The Commission must carefully assess the effect of any final federal circuit court of appeals decision on the Commission's regulatory authority before it will change any prior Commission rulings. ¶33.

The Commission will not completely foreclose the use of subject matter experts or the use of actual data in future proceedings but will not accept future Incumbent Local Exchange Carrier ("ILEC")-proposed nonrecurring costs simply because they rely on subject matter experts or actual data. ¶40.

The Commission's directive to one ILEC to recalculate its costs and rates using another ILEC's previously approved work time estimates does not shift the burden of proof.

An ILEC must still base cost recovery on its own costs, but the Commission may require ILECs to perform their work with comparable efficiency. ¶¶41-44.

The Commission retains the authority to establish an appropriate rate structure for non-internet service provider ("ISP")-bound intrastate traffic. ¶¶46-47; Order on Remand and Report and Order, *In the Matter of the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, Intercarrier Compensation for ISP-Bound Traffic, CC Docket Nos. 96-98; CC Docket No. 99-68, FCC 01-131 (rel. Apr. 27, 2001) ("ISP Order on Remand").

The Commission has the authority to determine that the tandem switching rate is appropriate based on both the geographic area a competitive local exchange carrier ("CLEC") switch serves and the functional similarities between a CLEC's network and an ILEC's network. ¶52; *First Report and Order, In Re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, No. 96-98, 11 FCC Rcd 21905 (rel. Aug. 8, 1996) ("Local Competition Order").

The Commission may establish two-tiered rates to promote symmetrical rate setting and to compensate CLECs both for traffic eligible for tandem switching rate compensation and for traffic not eligible for the tandem switching rate. ¶59; 47 C.F.R. 51.711; *Local Competition Order*.

The calculation of each party's share of the cost of intrastate interconnection facilities

does not include ISP-bound traffic flows, because such traffic is interstate in nature. ¶64; 47 C.F.R. 51.709; ISP Order on Remand.

Qwest must establish separate nonrecurring charges for orders submitted electronically and orders submitted for manual processing. ¶68.

The Commission rejects use of cost models from Docket No. UT-960369 to support the calculation of high capacity loop prices because those models were not submitted in this proceeding and do not estimate the costs of many unbundled network elements ("UNEs") at issue in Part B. ¶¶98,104.

Verizon must recalculate its nonrecurring costs to reflect a 20% reduction of actual observed work times, based on the Commission's review of the record as a whole and its reasoned judgment. ¶113.

Verizon must charge the same nonrecurring charge for conversions of special access or private line circuits, whether those circuits are being converted to enhanced extended loops ("EELs") to unbundled loops. A CLEC requesting conversion must show, on a case-by-case basis, that it provides a significant amount of local traffic. ¶¶115-120.

Sponsors of total element long run incremental cost ("TELRIC") cost models must explain the differences between model values and actual values. Absent adequate explanation on the part of Verizon for the fact that its actual loop lengths are so much shorter than model loop lengths, the Commission requires Verizon to adjust its

model to reflect loop lengths at the wire-center level based on data the company developed in 1998. ¶¶128-129.

Verizon must adjust its drop lengths, structure sharing ratios and pole costs to reflect estimates from earlier Commission proceedings because in this proceeding Verizon failed to provide a cost model that was open and adjustable, as ordered by the Commission. ¶¶134-143.

The Commission has authority to mandate unbundling of network elements independent of the Federal Communications Commission ("FCC's") authority to do so. The Commission defers a decision on whether it has the authority to mandate unbundled packet switching to a subsequent proceeding. ¶177; §251(d)(3) of the Telecommunications Act of 1996.

In the Matter of the  
Investigation Into

DOCKET NO. UT-003022

US WEST  
COMMUNICATIONS, INC.'s

DOCKET NO. UT-003040

ORDER DENYING MOTION TO REOPEN  
PROCEEDING

Compliance With Section 271 of  
the Telecommunications Act of  
1996

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In the Matter of

US WEST  
COMMUNICATIONS, INC.'s

Statement of Generally  
Available Terms Pursuant to  
Section 252(f) of the  
Telecommunications Act of 1996

The Commission denies the motion to reopen the proceeding based on Qwest's withdrawal of its Section 271 application before the Federal Communication Commission ("FCC") in order to supplement the application with regard to Qwest's long distance affiliate's compliance with Section 271. Neither the Telecommunications Act of 1996 nor the FCC require further input from state commissions to address promptly refiled Section 271 applications, and judicial economy dictates review of the affiliate issue by the FCC, rather than by each of the fourteen individual states affected by the application. ¶¶13-14.